



BEFORE THE ARIZONA CORPORATION COMMISSION

SUSAN BITTER SMITH, CHAIRMAN

BOB STUMP, COMMISSIONER

BOB BURNS, COMMISSIONER

DOUG LITTLE, COMMISSIONER

TOM FORESE, COMMISSIONER

2015 DEC 15 P 2: 51

AZ CORP COMMISSION  
DOCKET CONTROL

IN THE MATTER OF THE APPLICATION  
OF SUNZIA TRANSMISSION LLC, IN  
CONFORMANCE WITH THE  
REQUIREMENTS OF ARIZONA REVISED  
STATUTES 40-360, ET SEQ., FOR A  
CERTIFICATE OF ENVIRONMENTAL  
COMPATIBILITY AUTHORIZING THE  
SUNZIA SOUTHWEST TRANSMISSION  
PROJECT, WHICH INCLUDES THE  
CONSTRUCTION OF TWO NEW 500 KV  
TRANSMISSION LINES AND  
ASSOCIATED FACILITIES  
ORIGINATING AT A NEW SUBSTATION  
(SUNZIA EAST) IN LINCOLN COUNTY,  
NEW MEXICO, AND TERMINATING AT  
THE PINAL CENTRAL SUBSTATION IN  
PINAL COUNTY, ARIZONA. THE  
ARIZONA PORTION OF THE PROJECT IS  
LOCATED WITHIN GRAHAM,  
GREENLEE, COCHISE, PINAL, AND  
PIMA COUNTIES.

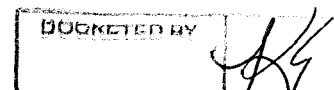
DOCKET NO. L-00000YY-15-0318-  
00171

Case NO. 171

**REQUEST FOR WRITTEN  
BRIEFING AND ORAL  
ARGUMENT**

Arizona Corporation Commission  
**DOCKETED**

DEC 15 2015



After thirteen days of hearing, testimony from twelve witnesses, and the introduction of hundreds of exhibits, the Arizona Power Plant and Transmission Line Siting Committee (the "Line Siting Committee") voted to grant SunZia Transmission LLC ("Applicant" or "SunZia") a Certificate of Environmental Compatibility ("CEC") for the SunZia Southwest Transmission Project ("Project"). Eight members of the Line Siting Committee voted in favor of granting the CEC, one abstained, one was absent, and none opposed.

Intervenors Norm Meader, Peter Else, and Christine McVie have now requested review, asking the Commission to overturn the Line Siting Committee's decision and deny the CEC. Ms. McVie also asks for the addition of new conditions in the event the Commission does not deny the CEC.

1 The Commission's review of the decision to grant the CEC by the Line Siting  
2 Committee must be "on the basis of the record." A.R.S. 40-360.07(B). Given the  
3 consequences to SunZia associated with denying the CEC or imposing additional conditions,  
4 and to ensure the Commission has a full and fair picture of the evidence presented during the  
5 hearing, SunZia respectfully requests that the Commission provide an opportunity for written  
6 briefs and oral argument, as provided for in A.R.S. 40-360.07(B).

### 7 Discussion

#### 8 *I. The Requests for Review raise new arguments and fail to cite or accurately 9 reflect the extensive record.*

10 Mr. Meader raises six substantive arguments, four of which he raised during the Line  
11 Siting Committee hearing and two that he raises now for the first time on appeal. With very  
12 limited exceptions, the assertions made in the Request are not supported with any references  
13 to the record. Mr. Else asserts the Line Siting Committee committed a procedural error that  
14 warrants reversal and argues that the Applicant and the Bureau of Land Management  
15 conspired to deceive the Line Siting Committee into approving the Project. Like Mr.  
16 Meader's Request, Mr. Else's Request is largely devoid of references to the record to support  
17 the assertions and arguments he makes.

18 Fundamentally, the Requests for Review filed by Mr. Meader and Mr. Else restate  
19 (and add to) their arguments before the Committee, but lack evidentiary support and do not  
20 reflect the facts actually proven during the hearing. Given the absence of citations to the  
21 record in the Requests, written briefing, with citations to the record, is necessary to facilitate  
22 the Commission's review "on the basis of the record," as required by A.R.S.40-360.07(B).

#### 23 *II. Ms. McVie asks the Commission to ignore the settlement she reached.*

24 Ms. McVie's proposed condition 38 is a combination of three conditions that she, Mr.  
25 Else, and Mr. Meader proposed during the Line Siting Process: Intervenor Proposed  
26 Conditions 7, 10 and 18. Her proposed condition 39 is based on Intervenor Proposed  
27 Conditions 14 and 15. These conditions were addressed and resolved by Condition 29, an  
28 unprecedented condition which was a negotiated compromise among the Applicant, Ms.  
McVie, and other parties:

1 CHMN. CHENAL: So Mr. Lofland, let me read the  
2 numbers again. I know you want to make absolutely  
3 clear. 4, 5, 6, 7, 12 through 20 will be addressed by  
the language [Condition #29] that the parties worked out yesterday  
evening, is that correct?

MR. LOFLAND: Yes, sir.

4 CHMN. CHENAL: Okay. And the intervenors, is  
that correct?

5 MS. McVIE: That is accurate.

6 Transcript at 2483:24-2484:7. Unlike any other condition previously adopted by the Line  
7 Siting Committee, Condition 29 provides Ms. McVie with an unprecedented opportunity to  
8 participate and provide comments regarding the development and drafting of the future Plan  
9 of Development for the Project.

10 Nonetheless, Ms. McVie now seeks more than the compromise she negotiated and  
11 asks the Commission to impose conditions that she previously agreed to forego in return for  
12 Condition 29. Written briefing is necessary to explain the settlement and the record on which  
13 it was reached.

14 *III. Other conditions requested were considered and rejected by the Line Siting*  
15 *Committee for significant legal and policy reasons.*

16 Condition 26 of the CEC is an unprecedented condition to require the use of aerial  
17 construction in a portion of the San Pedro River Valley, "subject to the approval of the  
18 landowner, ASLD [the Arizona State Land Department]" and taking into account the  
19 potential negative consequences of helicopter construction near cultural sites. *See* Condition  
20 #26 of the CEC. This condition reflects a carefully crafted compromise developed by the  
21 Committee after thorough development and vetting of the record, Ms. McVie's original  
22 proposal, and an alternative proposed by the Applicant. *See* Transcript 2609:3 – 2627:21.  
23 Unsatisfied with the Line Siting Committee's thorough and thoughtful evaluation of multiple  
24 factors, Ms. McVie requests modification of Condition #26 to mandate the use of helicopters  
25 throughout the San Pedro River watershed even where there are existing roads and utility  
26 easements.

27 Ms. McVie's proposed conditions 40 and 41 would undercut the reliability benefits of  
28 the Project and raise significant concerns regarding conflicts with federal law. Based on its

1 careful consideration of the record and applicable laws, the Line Siting Committee considered  
2 and rejected conditions similar to those proposed by Ms. McVie. Transcript 2638:14 –  
3 2644:15; 2648:8 – 2651:8; 2653:6 – 2655:12.

4 Written briefing, with citations to the record, will provide the Commission with the  
5 evidence and legal argument needed to fully vet the legal and policy implications of Ms.  
6 McVie's requests for modifications and additional conditions.

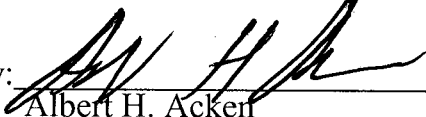
7 **Conclusion**

8 To assist the Commission in vetting the important legal and policy questions and  
9 reviewing the Line Siting Committee's decision on the basis of the record, SunZia requests  
10 the opportunity to respond to the intervenors' Requests for Review. The inclusion of new  
11 arguments based on new assertions and the absence of citations to the record in support of the  
12 Requests further highlights the need for an opportunity for written briefing, with citations to  
13 the record, and oral argument.


14 Because the Commission must confirm, deny or modify the CEC by February 7, 2016,  
15 SunZia requests expedited consideration of this procedural request.

16 DATED this 15th day of December, 2015.

17  
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1 **ORIGINAL** and 25 copies of the  
2 foregoing filed this 15th day of  
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6 **COPY** of the foregoing emailed  
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